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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,643	12/21/2001	Yoshiharu Aruga	Q67848	2776
7590 08/16/2004			EXAMINER	
SUGHRUE MION, PLLC 2100 Pennsylvania Avenue, NW Washington, DC 20037-3213			MOUTTET, BLAISE L	
			ART UNIT	PAPER NUMBER
			2853	

DATE MAILED: 08/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/024,643

Applicant(s)

ARUGA ET AL.

Examiner

Blaise L Mouttet

Art Unit

2853

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

***Response to Arguments***

Applicant's arguments filed July 26, 2004 have been fully considered but they are not persuasive.

The applicant argues that the Cook '664 reference fails to anticipate the feature of independent claim 1, and the claims dependent therefrom, that "the ink cartridge is configured to supply ink to the sub-tank when the ink level detector detects the low ink state and the value acquired by the ink consumption counter reaches a predetermined count value" and the feature of independent claim 8, and the claims dependent therefrom, of "supplying ink from the ink cartridge to the sub-tank when the ink level detector detects the low ink state and the referred value reaches the predetermined count value".

The applicant points to several intermediate steps performed by Cook's method and notes that Cook has different motivations than applicant (i.e. sensor reliability testing).

Regarding claim 8 and the claims dependent therefrom, the examiner notes that the scope of the claims is not seen to be particularly limited to **only** the steps recited since the claim is recited in an open ended form (i.e. comprising instead of consisting of). The inclusion of additional intermediate steps in the prior art does not distinguish claim 8 from the prior art (see MPEP 2111.03).

Regarding claim 1 and the claims dependent therefrom, the examiner notes that the claims are directed to an apparatus and must be distinguished from the prior art in terms of structure rather than function (see MPEP 2114).

Art Unit: 2853

Applicant's arguments seem to read limitations of the specification into the claims. If the process claims were amended to recite --supplying ink from the ink cartridge to the sub-tank **as a direct consequence of** the ink level detector detecting the low ink state and the referred value reaching the predetermined count value-- then the process would be distinguished from the applied prior art as argued by applicant. If the apparatus claims were amended to recite --**a controller** for supplying ink to the sub-tank **as a direct consequence of** the ink level detector detecting the low ink state and the value acquired by the ink consumption counter reaching a predetermined count value-- then the apparatus would be distinguished from the applied prior art as argued by applicant.

However, lacking the above noted amendments, the claims are seen to be properly rejected as put forward in the final rejection.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Blaise Mouttet who may be reached at telephone number (571) 272-2150. The examiner can normally be reached on Monday-Friday from 8:30 a.m. to 5:00 p.m.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Meier, Art Unit 2853, can be reached at (571) 272-2149. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 2853

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Blaise Mouttet August 11, 2004

- BM 8/11/2004



LAMSON NGUYEN  
PRIMARY EXAMINER  
08/13/04